

NEW YORK STATE EDUCATION DEPARTMENT  
OFFICE OF PROFESSIONAL DISCIPLINE  
STATE BOARD FOR MIDWIFERY

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IN THE MATTER

of the

Disciplinary Proceeding

against

APPLICATION FOR  
CONSENT ORDER

CAL. NO. 29734

**EILEEN STEWART**  
**a/k/a EILEEN S. ORT**

who is currently licensed to practice  
as a midwife in the State of New York.

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**EILEEN STEWART a/k/a EILEEN S. ORT** states:

That on or about May 9, 1995, I was issued license number 000367  
by the New York State Education Department to practice as a midwife  
in the State of New York.

That I am currently registered to practice as a midwife in the  
State of New York from an address at [REDACTED] Buffalo,  
New York 14222.

That I have been charged with four (4) specifications of  
professional misconduct, a copy of which is annexed hereto, made  
a part hereof, and marked as Exhibit "A".

I do not contest the aforesaid four (4) specifications of  
misconduct, charging me with practicing the profession of  
midwifery with gross negligence (delegating duties to an  
unqualified person); and (failing to perform an adequate  
assessment of a patient's ability to birth a baby in breech

**EILEEN STEWART a/k/a EILEEN S. ORT**

position; failing to appropriately administer antibiotics to a patient; permitting a pregnant patient to vaginally deliver a baby in breech position at Respondent's home); negligence on more than one occasion (failing to document a patient's vitals and failing to appropriately monitor the fetal heart rate of a patient's baby); and practicing the profession of midwifery with moral unfitness (providing a false statement to the New York State Education Department).

I hereby agree to the penalty that my license to practice as a midwife in the State of New York be suspended for three (3) years; with leave to apply for a stay of execution of any unserved portion of said suspension upon completion of 30 months of said suspension and upon written proof of my successful completion of a course of re-education in the practice of midwifery at the Midwifery Institute at Jefferson, Philadelphia, Pennsylvania, said re-education to have the prior approval of a member of the New York State Midwifery Board, and said proof of completion to be submitted to the Director, Office of Professional Discipline, New York State Education Department, 1411 Broadway - 10<sup>th</sup> Floor, New York, New York 10018-3496. In the event that said Director is satisfied that I have successfully completed the aforementioned re-education program, said Director shall notify me of the stay of execution of any unserved portion of said suspension and the effective date thereof.

**EILEEN STEWART a/k/a EILEEN S. ORT**

That, I be placed on probation for a period of two (2) years, said probation to commence if and when I return to practice as a midwife in the State of New York, under the terms set forth in the exhibit annexed hereto, made a part hereof, and marked as Exhibit "B".

I further agree to inform the Director, Office of Professional Discipline, of my return to the practice of midwifery in the State of New York, by certified mail, return receipt requested, addressed to said Director, Office of Professional Discipline, New York State Education Department, 1411 Broadway - 10<sup>th</sup> Floor, New York, New York 10018-3496, at least seven (7) days before my return to the practice of midwifery in the State of New York.

I hereby make this application to the Board of Regents and request that it be granted.

I understand that in the event the application is denied by the Board of Regents, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me. Such application shall not be used against me in any way and shall be kept in strict confidence during the disciplinary proceeding, and such denial by the Board of Regents shall be without prejudice to the continuance of the disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law.

I agree that in the event the Board of Regents grants my

EILEEN STEWART a/k/a EILEEN S. ORT

application, as set forth herein, an Order may be issued in accordance with the same. I understand that if and when the Board of Regents grants this application, the entire application shall become a matter of public record.

No promises of any kind were made to me. I am making this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

  
Respondent

EXHIBIT "A"

EILEEN STEWART  
a/k/a EILEEN S. ORT

**FIRST SPECIFICATION OF PROFESSIONAL MISCONDUCT**

Respondent is charged with practicing the profession of midwifery with gross negligence, within the purview and meaning of New York Education Law section 6509(2), in that:

Respondent, on or about and between May 13, 2013 and June 18, 2013, was working as a midwife at Buffalo Midwifery Services, PLLC, Buffalo, New York, which she owns and operates. Respondent allowed an employee of her practice who was licensed as a licensed practical nurse but not licensed as a midwife, to independently care for and/or treat and/or deliver the baby of patient J.L., a twenty-seven (27) year old pregnant female.

**SECOND SPECIFICATION OF PROFESSIONAL MISCONDUCT**

Respondent is charged with practicing the profession of midwifery with gross negligence, within the purview and meaning of New York Education Law section 6509(2), in that:

Respondent, on or about and between March 14, 2014 and November 28, 2014, while working as a midwife at Buffalo Midwifery Services, PLLC, Buffalo, New York, provided care to

patient M.C., a thirty-five (35) year old female who had tested positive for Group B Strep infection and was pregnant with her first child. Patient M.C.'s baby presented in the Frank breech position from 30.4 weeks gestation until delivery. Respondent practiced the profession of midwifery with gross negligence in that:

1. Respondent, on or about and between October 6, 2014 and November 28, 2014, failed to perform a full and/or adequate assessment of patient M.C.'s ability to vaginally deliver her baby, who presented in a Frank breech position.
2. Respondent, on or about and between November 27, 2014 and November 28, 2014, failed to provide patient M.C. with Penicillin G Potassium IV within eighteen (18) hours of patient M.C.'s membranes rupturing.
3. Respondent, on or about and between November 27, 2014 and November 28, 2014, allowed patient M.C. to labor and attempt delivery of her baby at Respondent's home, which also serves as Respondent's office and practice.

### **THIRD SPECIFICATION OF PROFESSIONAL MISCONDUCT**

Respondent is charged with practicing the profession of midwifery with negligence on more than one occasion, within the purview and meaning of New York Education Law section 6509(2), in

that:

Respondent, on or about and between June 27, 2016 and August 11, 2016, while working as a midwife at Buffalo Midwifery Services, PLLC, Buffalo, New York, provided care to patient M.D., a thirty-one (31) year old female who was pregnant with her first child. Patient M.D., who was at 41.5 days gestation and experiencing symptoms of labor, observed her membranes ruptured at approximately 17:00 on August 10, 2016. Respondent provided care to patient M.D. at the patient's home from approximately 21:15:00 on August 10, 2016 to approximately 01:00:00 on August 11, 2016. Respondent practiced the profession of midwifery with negligence on more than one occasion during that time, in that:

1. Respondent failed to document patient M.D.'s vital signs from approximately 21:15:00 on August 10, 2016 to approximately 01:00:00 on August 11, 2016.
2. Respondent, between approximately 21:15:00 and approximately 22:45:56 on August 10, 2016, failed to monitor the fetal heart rate of patient M.D.'s baby every thirty (30) minutes.

#### **FOURTH SPECIFICATION OF PROFESSIONAL MISCONDUCT**

Respondent is charged with unprofessional conduct and engaging in conduct in the practice of the profession which evidences moral unfitness to practice the profession, within the

purview and meaning of New York Education Law section 6509(9), in specific violation of 8 NYCRR section 29.1(b)(5), in that:

Respondent, on or about June 18, 2018, was employed as a midwife at Buffalo Midwifery Services, PLLC, Buffalo, New York, which she owns and operates. On June 18, 2018, Respondent signed a statement that was submitted to the Office of Professional Discipline in response to its request for information. Respondent knew the statement contained false information, in that in the statement Respondent asserted that she "immediately told [patient M.D.] to get out of the hot tub and did not allow her to enter the hot tub again for the duration of her labor."



EXHIBIT "B"

TERMS OF PROBATION

**EILEEN STEWART**  
**a/k/a EILEEN S. ORT**

CALENDAR NUMBER 29734

1. That Respondent, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing Respondent's profession;
2. That Respondent shall submit written notification to the New York State Education Department, addressed to the Director, Office of Professional Discipline, New York State Education Department, 1411 Broadway - 10<sup>th</sup> Floor, New York, New York 10018-3496, of any employment and/or practice, Respondent's residence, telephone number, or mailing address, and of any change in Respondent's employment, practice, residence, telephone number, or mailing address within or without the State of New York;
3. That Respondent, during the period of probation, shall not participate in any way in labor and delivery in a home setting;
4. That Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the NYSED, addressed to the Director, Office of Professional Discipline, as aforesaid, no later than the first three (3) months of the period of probation;
5. That Respondent shall submit written proof to the NYSED, addressed to the Director, Office of Professional Discipline, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board of Regents, said proof of the above to be submitted no later than the first six (6) months of the period of probation;

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6. That Respondent shall make quarterly visits to an employee of the Office of Professional Discipline, New York State Education Department, unless otherwise agreed to by said employee, for the purpose of said employee monitoring Respondent's terms of probation to assure compliance therewith, and Respondent shall cooperate with said employee, including the submission of information requested by said employee, regarding the aforesaid monitoring;
7. That upon receipt of evidence of noncompliance with or any other violation of any of the aforementioned terms of probation, the New York State Education Department may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Education Law and/or Rules of the Board of Regents.

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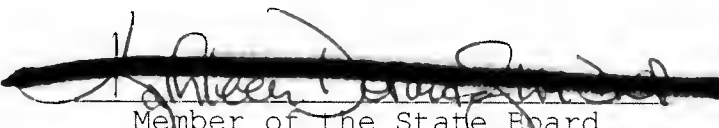
who is currently licensed to practice  
as a midwife in the State of New York.

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The undersigned agree to the above statement and to the  
proposed penalty based on the terms and conditions thereof.

Dated: Dec 3, 2018   
Respondent

Dated: Dec 3, 2018   
Attorney for Respondent

Dated: Dec 5, 2018   
Member of the State Board  
for Midwifery

Dated: 12-10, 2019   
Executive Director  
Office of Professional Discipline

The undersigned, a member of the Board of Regents who has been  
designated by the Chairman of the Regents Committee on Professional  
Practice to review this Application for a Consent Order, has  
reviewed said Application and recommends to the Board of Regents  
that the Application be granted.

Dated: 1-10, 2019   
Member, Board of Regents